

CHAPTER 8 LEGAL GUIDE

The purpose of this chapter is to serve as a ready reference guide to statutes that impose specific duties upon the recorder.

In some instances excerpts have been quoted or the wording condensed from the statutes. In other instances the Indiana Code has been quoted verbatim when it was felt that a full quotation would be beneficial.

It is not presumed this chapter includes every statute affecting the office of county recorder. Neither does it include many of the statutes discussed elsewhere in the Manual. It does, however, include those that are more often needed by the recorder in the performance of official duties.

Legal citations are given so that the applicable laws and opinions may be conveniently referred to whenever further information on the subject is desired.

LEGAL GUIDE

ENTRY BOOK

Every recorder of deeds shall keep a book, each page of which shall be divided into five (5) columns, headed as follows, to-wit:

Date of Reception	Names of Grantors	Names of Grantees	Description of Lands	Volume and Page Where Recorded
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And the recorder shall enter in said book all deeds and other instruments left with him to be recorded, noting in the first column the day and hour of receiving such deed or instrument, and the other particulars in the appropriate columns; and every such deed or instrument shall be deemed as recorded at the time so noted. [IC 32-21-2-10; 36-2-11-9]

It shall be the duty of every county recorder to enter upon the entry book of his office, at the time they are executed, all satisfactions, cancellations and assignments, of whatever kind, when such satisfaction, cancellation or assignment is made upon the margin of any record in the county recorder's office, and such entry shall show the date of entry, name of the person or persons who executed the instrument so satisfied, canceled or assigned and the name, number and page of the record where such instrument is recorded. [IC 36-2-11-18]

RECORDS IN GENERAL - RECORDING OF INSTRUMENTS

Such recorder, at the expense of the county, shall procure sufficiently large and well bound books, of good materials, in which he shall record deeds, bonds, field notes and other instruments of writing delivered to him, which by law he is bound to record, and he shall also keep a book in which he shall make entry, upon the reception of any such instrument, of the date thereof, names of grantors and grantees, description of the premises affected by such instrument, and the fees for the recording thereof, and shall deliver a receipt to the person bringing such instrument, if demanded, containing the matter embraced in such entry: Provided, That nothing contained in this act shall be so construed as to prohibit the recorder of the county, with the approval and consent of the board of commissioners of such county, from using standard looseleaf books or systems for the purpose of recording any of the instruments which are contemplated herein. [IC 36-2-11-8; 36-2-11-9]

Such recorder shall record deeds and mortgages in separate records, to be procured for that purpose, as provided in IC 36-2-11-8.

The recorder shall record all instruments that are proper for recording, in the order in which they are received in his office for record. [IC 36-2-11-8]

Every conveyance or other instrument, entitled by law to be recorded, shall be recorded by the recorder of the county in which the land embraced in such conveyance, is situate; together with the requisite certificate of acknowledgment of proof endorsed thereon or annexed thereto; and unless such certificate be recorded with such deed, neither the record of such conveyance or other instrument of writing, nor any transcript thereof, shall be read or received in evidence. [IC 32-21-2-11]

Printed Records: A county recorder may use printed forms for record books only for the recording of instruments presented by persons who presented fifty (50) or more instruments for recording during the preceding year. (IC 36-2-11-11)

Printed Record Sheets: The recorder may record sheets conforming in size, color, weight, and texture to the pages of the appropriate official record book in which similar instruments are recorded, if:

- (1) The complete text of a printed instrument comprising ten (10) or more printed pages has been accurately and legibly printed on the sheets;
- (2) The original instrument is filed for record in his office at the same time; and,
- (3) He is satisfied that the complete text of the original instrument has been accurately and legibly printed on the sheets.

After the recorder has numbered the sheets and securely fastened them into the official record book at the proper place according to the date and time of the filing of the instrument for record, the instruments are considered to have been properly recorded. [IC 36-2-11-10]

(NOTE: The cost of printed record sheets under this statute is not to be borne by the county.)

Photographic or Photostatic Recording Process: A county officer who is required to record documents may record them by a photographic process if: (1) The process is adopted by the county commissioners; and (2) the necessary photographic equipment and supplies are furnished for that purpose by the county commissioners.

Photostatic recording of documents has the same force as recording of documents by handwriting, typewriter, or handwriting on partly printed pages. [IC 36-2-17-3]

Miniature Photographic or Microfilm Recording Process: A county officer may record documents by miniature photographic process or microfilm process if: (1) The installation of the process is approved by the county commissioners; and, (2) the process provides for an original and a duplicate film copy of each document that the officer is required to record. The officer shall index and file the original copy in a suitable container in the office where the document is recorded, in such a manner that it is easily accessible and readable by an interested person. The officer shall preserve the duplicate copy in a fireproof vault, either in the courthouse where the office is located or in a place designated by the county commissioners.

When recording a release, assignment, or other document that requires a marginal entry or notation on a prior record made under this section, an officer acting under this section shall: (1) Record the document on the index page of the photographic or microfilm record containing the prior record; or (2) Index and cross-reference the marginal entry or notation and record it on a separate page attached to or filed with and made a part of the prior record.

An officer recording a document under this section has exclusive control over the film and records in his office, and he may not return an original document to the person presenting it for record until the film copy of that document is properly recorded, indexed, filed, and made available to interested persons. [IC 36-2-17-4]

Fees: The recorder may demand his fees before entering and recording an instrument. [IC 36-2-11-6]

When the recorder has received an instrument for record, he may return it to the person who presented it only after the fee for recording the instrument has been paid. [IC 36-2-11-7]

Indexes: The recorder shall index each volume of instruments he records by: (1) The name of each grantor, promisor, or covenantor, in alphabetical order and cross-referenced to the proper grantee, promisee, or covenantee; and (2) The name of each grantee, promisee, or covenantee, in alphabetical order and cross-referenced to the proper grantor, promisor, or covenantor.

The recorder shall accurately maintain separate indexes of all the records of deeds for real estate and mortgages on real estate in his office. The recorder shall index each deed or mortgage alphabetically, by the name of each grantor and grantee or mortgagor and mortgagee, and shall include in each index entry a concise description of the real property, the date of the deed or mortgage, and the number or letter of the book and the page at which each deed or mortgage is recorded. [IC 36-2-11-12]

ESSENTIAL REQUIREMENTS OF INSTRUMENTS

Acknowledgments: To entitle any conveyance, mortgage or instrument of writing to be recorded, it shall be acknowledged by the grantor or proved before any: judge; clerk of a court of record; auditor; recorder; notary public; mayor of a city, in this or any other state; commissioner appointed in any other state by the governor of this state; minister, charge d'affaires, or consul of the United States in any foreign country; clerk of the city-county council for a consolidated city; city clerk for a second class city, or clerk treasurer for a third class city; clerk treasurer for a town; or person authorized under IC 2-3-4-1 including a member of the general assembly, the principal clerk of the house of representatives and the secretary of the senate. [IC 32-21-2-3]

When any conveyance, mortgage or other instrument required to be recorded is acknowledged in any county in this state other than the one in which the same is required to be recorded, the acknowledgment shall be certified by the clerk of the circuit court of the county in which such officer resides, and attested by the seal of said court, but an acknowledgment before an officer having an official seal, if attested by such official seal, shall be sufficient without such certificate. [IC 32-21-2-4]

To entitle to record, in this state, conveyances acknowledged out of this state and within the United States, the same must be certified by the clerk of any court of record of the county in which the officer receiving the acknowledgment resides, and attested by the seal of said court; but an acknowledgment before an officer having an official seal, attested by his official seal, shall be sufficient without such certificate. [IC 32-21-2-5]

Conveyances, mortgages and other instruments in writing, of a character to admit them to record under the laws of this state, when executed in a foreign country, shall be acknowledged by the grantor or person executing the same and proved before any diplomatic or consular officer of the United States, duly accredited, or before any officer of such country who, by the laws thereof, is authorized to take acknowledgments or proof of conveyances; and if such acknowledgment or proof is in the English language, and attested by the official seal of such officer, it shall be sufficient to admit such instrument to record; but if in some other language or not attested by such official seal, then such instrument must be accompanied by a certificate of an officer of the United States, as aforesaid, to the effect that it is duly executed according to the laws of such foreign country, that the officer certifying to the acknowledgment or proof had legal authority so to do, and the meaning of his certificate, if the same is made in a foreign language. [IC 32-21-1-11]

The following, or any other form substantially the same, shall be a good and sufficient form of acknowledgment of any deed or mortgage:

"Before me, E. F. (judge or justice, as the case may be), this _____ day of _____, A.B. acknowledged the execution of the annexed deed, (or mortgage, as the case may be)." [IC 32-21-2-7]

In addition to the acknowledgment of written instruments and the performance of other notarial acts in the manner and form otherwise authorized by the laws of this state, a person serving in or with the armed forces of the United States wherever located, or a person who is serving as a merchant seaman outside the limits of the United States included within the fifty (50) states and the District of Columbia, or a person who is outside said limits by permission, assignment or direction of any department or office of the United States government, in connection with any activity pertaining to the prosecution of any war in which the United States is engaged, may acknowledge any instruments, attest documents, subscribe oaths and affirmations, give depositions, execute affidavits and perform other notarial acts before any commissioned officer with the rank of second lieutenant or higher in the active services of the Army of the United States or the United States Marine Corps or before any commissioned officer with the rank of ensign or higher in the active service of the United States Navy or the United States Coast Guard, or with equivalent rank in any other component part of the armed forces of the United States which officer shall certify thereto over his official signature and title in substantially the following form:

With the Armed Forces (or other _____)
 component part of the armed forces))SS
 of the United States at¹ _____)

The foregoing instrument was acknowledged this _____ day of _____ 20__ by² _____ serving (in) the armed forces of the United States.

(with)

(as a merchant seaman outside the limits of the United States) (as a person not in the armed forces, but outside the limits of the United States by permission, assignment or direction of a department of the United States Government in connection with an activity pertaining to the prosecution of the war,) before me, a commissioned officer in the active service of the (Army of the United States) (United States Marine Corps) (United States Navy) (United States Coast Guard) (or equivalent rank in any other component part of the armed forces).

 (Signature of Officer)
 Rank and Branch

¹In the event that military considerations preclude disclosure of the place of execution or acknowledgment the words "an undisclosed place" may be supplied in lieu of the appropriate city or county, state, and country.

²If by a natural person or persons, insert name or names; if by a person acting in a representative or official capacity or as attorney-in-fact, then insert name of person acknowledging the instrument, followed by an accurate description of the capacity in which he acts including the name of the person, corporation or other entity represented. [IC 32-21-9-1]

All deeds may be proved according to the rules of the common law, before any officer authorized to take acknowledgments, and being so proved, shall be entitled to record. [IC 32-21-2-6]

Legibility of Names: No instrument shall be received for record by the county recorder of any county of the state unless the same complies with each of the following requirements:

- (1) The name of each person who executed the instrument is legibly printed, typewritten, or stamped immediately beneath his signature or the signature itself is printed, typewritten, or stamped;
- (2) The name of each witness to the instrument is legibly printed, typewritten, or stamped immediately beneath his signature or the signature itself is printed, typewritten, or stamped;

- (3) The name of each notary public whose signature appears on the instruments is legibly printed, typewritten, or stamped immediately beneath his signature or the signature itself is printed, typewritten, or stamped; and
- (4) The name of each person who executed the instrument appears identically in the body of the instrument, in the acknowledgment or jurat, in his signature, and beneath his signature.

The recorder may receive for record an instrument that does not comply with the above if:

- (1) A printed or typewritten affidavit of a person with personal knowledge of the facts is recorded with the instrument;
- (2) The affidavit complies with this section;
- (3) The affidavit states the correct name of a person, if any, whose signature cannot be identified or whose name is not printed, typewritten, or stamped on the instrument as prescribed by this section; and
- (4) When the instrument does not comply with subsection (c)(4) above, the affidavit states the correct name of the person and states that each of the names used in the instrument refers to the person.

An instrument, document, or copy received and recorded by a county recorder is conclusively presumed to comply with this section. [IC 36-2-11-16]

The provisions of this act shall not apply to the following instruments:

- (1) An instrument executed before November 4, 1943;
- (2) A judgment, order, or writ of a court;
- (3) A will or death certificate; or
- (4) An instrument executed or acknowledged outside Indiana.

Whenever this section prescribes that the name of a person be "printed, typewritten, or stamped immediately beneath his signature," the signature must be written on the instrument, directly preceding the "printed, typewritten, or stamped" name, and may not be superimposed on that name so as to render either illegible. However, the instrument may be received for record if the name and signature are, in the discretion of the county recorder, placed on the instrument so as to render the connection between the two apparent.

Document Quality: The recorder may record a document or a copy produced by a photographic process of the document presented for recording if:

- (1) The document complies with other statutory recording requirements; and,
- (2) The document or copy will produce a clear, and unobstructed copy.

All copies accepted for recording shall be marked as copies by the recorder.

Name of Person Preparing Instrument: The recorder may receive for record or filing an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or lien on property only if the name of the person and governmental agency, if any, that prepared the instrument is printed, typewritten, stamped, or signed in a legible manner at the conclusion of the instrument. An instrument complies with this section if it contains a statement in the following form: "This instrument was prepared by (name)." [IC 36-2-11-15]

This section does not apply to:

- (1) An instrument executed before July 1, 1959, or recorded before July 26, 1967;
- (2) A judgment, order, or writ of a court;
- (3) A will or death certificate, or
- (4) An instrument executed or acknowledged outside Indiana. (IC 36-2-11-15)

Federal Documentary Stamp Tax: The Internal Revenue Code imposes a tax upon deeds, instruments, or other writings, whereby realty sold is granted, assigned, transferred, conveyed to, or vested in, the purchaser or, at his direction, in any other person, subject to the provisions of such code. The rate of tax is 55 cents on each \$500.00 or fractional part thereof of the net consideration, as defined. The tax, if due, is paid by the purchase of federal documentary stamps to be affixed to the instrument and cancelled in the manner provided in the code. The documentary stamps may be purchased at any United States Post Office.

The recording of an instrument is not contingent upon the stamps being affixed and we know of no statute or other provision imposing a responsibility upon the county recorder to see that the documentary stamps are so affixed to an instrument. It would seem that the recorder's authority or responsibility could go no further than to call the person's attention to the absence of such stamps, if the tax appears to be due.

Notarized Documents: IC 33-42-2-9 requires notary publics to indicate the county of residence on the document being notarized. Validity of any document notarized before July 1, 1982 would not be affected.

Since the county recorder does not testify as to the validity of any instrument for recording, a recorder should not refuse to accept instruments even though the county of residence of the notary public was not shown on the document.

DEEDS AND MORTGAGES

Many of the statutes applicable to the recording of deeds and mortgages are covered elsewhere in this Chapter, and particularly under the heading of "Essential Requirements of Instruments." In addition to these statutes, the following are also applicable to deeds and mortgages:

Transfer of Deeds for Taxation: Before recording any deeds of partition or conveyance of any land, the recorder shall require the endorsement thereon of the auditor of the proper county (which such auditor is hereby required, on demand, to make), that the land therein mentioned has been "duly entered for taxation subject to final acceptance for transfer," or that it is "not taxable," or "duly entered for taxation." [IC 36-2-11-14]

A recorder who violates this section shall forfeit the sum of five dollars (\$5.00), to be recovered by an action in the name of the county, for the benefit of the common school fund. [IC 36-2-11-14]

Release or Satisfaction of Liens: Every grantor in a deed of conveyance to real estate which has been placed upon record, in which deed such grantor has retained a lien for purchase money or other purpose on the real estate conveyed, shall, when full satisfaction of the lien shall have been received by the grantor, the grantor's assign or the grantor's lawful agent, and at the request of the grantee, enter satisfaction of the lien on the margin of the record of the lien, or in any other proper place that the recorder selects on the record, which shall operate as a complete discharge of the lien. [IC 32-28-5-1]

If a satisfaction, cancellation, or assignment of any kind is made on the margin of a record in the recorder's office, he shall immediately enter it on the entry book. The entry must show the date of entry, the name of the person who executed the instrument satisfied, cancelled, or assigned, and the name, number, and page of the record where the instrument is recorded. [IC 36-2-11-18]

If a grantee has satisfied a lien on real property but the grantor has not recorded that the lien has been satisfied under section one [IC 32-28-5-1] of this chapter, the grantor, at the request of the grantee, shall be required to make a certificate thereof, duly acknowledged by the grantor, his assign or his lawful agent, as is required for the acknowledgment of conveyances to entitle the same to be recorded, which certificate and acknowledgment shall be recorded by the recorder in whose office such deed is recorded, with reference to the book and page containing the recorded deed, and such recorded certificate shall discharge and release the lien aforesaid. [IC 32-28-5-2]

Every mortgagee of lands whose mortgage has been recorded, having received full payment of the sum or sums of money therein specified from the mortgagor, shall, at the request of the mortgagor, enter satisfaction on the margin or other proper place in the record of that mortgage, which shall operate as a complete release and discharge of that mortgage.

The release of mortgage, lease or other instrument required by law to be recorded, written upon the margin, or upon the record, of any mortgage in Indiana, by the party authorized to release same, is not a valid satisfaction of said mortgage, lease or other instrument, unless the release is attested on the record thereof by the recorder or deputy recorder of the county in which the mortgage is recorded. [IC 32-29-3-1]

Where a mortgage has been paid and satisfied by the mortgagor, the mortgagor may take a certificate of satisfaction, duly acknowledged by the mortgagee, or his lawful agent, as required for the acknowledgment of conveyances to entitle them to be recorded; which certificate and acknowledgment shall be recorded by the recorder in whose office that mortgage is recorded, with a reference to the record of the mortgage; and that recorded certificate shall discharge and release the mortgagor from that mortgage (or portion of that mortgage as indicated in a partial satisfaction), and bars all suits and actions thereon. [IC 32-29-1-7]

It shall be lawful for the president, vice president, cashier, secretary, treasurer, attorney in fact, or authorized representative of any national bank, state bank, trust company, or savings bank, or the president, vice-president, general manager, secretary, treasurer, or attorney in fact of any other corporation doing business in Indiana, to release upon the record mortgages, judgments, and other record liens, upon payment of the debts secured by the liens.

Such a release, when made upon the margin or face of the record of the mortgage, judgment, or other lien, and attested by the recorder, clerk, or other officer having custody of the record of the lien, shall operate as a full discharge and satisfaction of the lien.

The recorder of each county may require that each release, discharge, or satisfaction of a mortgage, judgment, or lien or any partial release of any of these, be recorded on a separate written instrument. If a recorder does so, an instrument presented for recordation in that county may not contain more than one (1) release, discharge, or satisfaction. If a recorder allows an instrument to contain more than one (1) release, discharge, or satisfaction, the fee for recording that instrument is seven dollars (\$7.00) for each release, discharge, or satisfaction contained on the instrument. [IC 32-29-5-1]

A national bank, state bank, trust company, or savings bank, or other corporation may, in like manner, release and discharge mortgages, judgments, and other record liens each by a separate written instrument signed by its corporation name, president, vice-president, cashier, secretary, treasurer, attorney in fact, or authorized representative of such national bank, state bank, trust company, or savings bank, or the president, vice-president, general manager, secretary, treasurer, attorney in fact, or authorized representative. A release under this section shall be recorded by the recorder, clerk, or other officer having custody of the record of the lien, with a reference on the margin of the record of the lien to the location where the release is recorded. This release, when recorded, shall operate as a full discharge and satisfaction of the lien, or portion of the lien as indicated in a partial release. However, no release by the attorney in fact shall be entitled to record until an instrument in writing duly signed and acknowledged by any two (2) officers of the national bank, state bank, trust company, savings bank, or any other corporation granting authority, particularly setting forth and specifying the power or authority given, granted, or conferred, shall have been duly recorded in the recorder's office of the county where the release is to be recorded.

A party may revoke the written instrument filed by: (1) noting on the written instrument granting the attorney in fact the authority to release mortgages and liens that this power has been revoked; or (2) filing and recording in the recorder's office of the county where the written instrument was filed, a separate written instrument signed and acknowledged by two (2) officers of the entity revoking the attorney in fact's authority. [IC 32-29-5-1]

Wherever it appears by the mortgage records of any county in the State of Indiana that a mortgage or mortgages have been executed to the state of Indiana, and there is no evidence of such indebtedness in the possession of either the treasurer or auditor of state, and there is no evidence in the offices of either the auditor or treasurer that such loan or loans secured by such mortgage or mortgages were ever made, the auditor of state may release and discharge said mortgage and mortgages of record. [IC 32-29-4-1]

It is the duty of every person, firm, limited liability company, corporation, copartnership, association, administrator, executor, guardian, trustee, or other person, who is the owner, holder or custodian of any mortgage, mechanic's lien, judgment or other lien which is recorded in Indiana, to release, discharge and satisfy of record, in whole or in part, such mortgage, mechanic's lien, judgment, or other lien, when the debt or obligation, together with the interest thereon, which such mortgage, mechanic's lien, judgment, or other lien, was made to secure, shall have been fully paid, lawfully tendered and discharged in whole or in part.

When the release, discharge or satisfaction is a release, discharge or satisfaction in part, the instrument must state on its face that it is a partial release, partial discharge or partial satisfaction and describe what portion of the mortgage, mechanic's lien, judgment or other lien is released discharged, or satisfied. [IC 32-28-1-1]

Release of Lien on Foreclosure: Upon the foreclosure of any recorded mortgage in any court of any county having jurisdiction in this state, and upon the payment and satisfaction of such judgment as may be rendered in such proceeding in foreclosure, the prevailing party shall immediately thereafter show satisfaction of the mortgage to be entered on the records of the recorder's office of such county. The record in foreclosure and satisfaction shall show that the whole debt secured by the mortgage has been paid. The recorder shall be paid a fee of not more than the amount specified in IC 36-2-7-10(b)(1) and (2) in each case of foreclosure requiring satisfaction. [IC 34-1-53-4]

Lapse of Time Release: Except as provided below, if the record of a mortgage or lien does not show when the debt or the last installment of the debt thereby secured becomes due, the lien of such mortgage or vendor's lien upon the real estate covered thereby shall cease and expire twenty (20) years from the date on which such mortgage or lien is executed, and in the event that such date has been omitted in such mortgage or vendor's lien, the lien of such mortgage or vendor's lien upon the real estate covered thereby shall cease and expire twenty (20) years from the date on which such mortgage or vendor's lien is recorded, and thereafter, upon the request* of the owner or owners of record of such real estate, the recorder of the county in which such real estate is situated shall certify on the record that the mortgage or vendor's lien is fully paid and satisfied by lapse of time, and the real estate is released from the lien. [IC 32-28-4-2]

*Note: To support a lapse of time release under IC 32-28-4-2, it is the general practice of county recorders to require the owner or owners of record to file a "written" request and this seems to be contemplated by the wording of that section.

The original mortgagee or the owner of any mortgage or any vendor's lien, the record of which does not show the time when the debt or the last installment of the debt secured by such mortgage or vendor's lien becomes due, may, within twenty (20) years from the date of such mortgage or lien, or, in the event that such mortgage or lien contains no date of execution, from the date of the recording of such mortgage or vendor's lien, file for record in the office of the recorder of the county in which such mortgage or vendor's lien is recorded, an affidavit showing the time when the debt or the last installment of the debt secured by such mortgage or vendor's lien becomes due, and, upon the filing of such affidavit, the recorder shall make a reference on the margin of the record of such mortgage or vendor's lien to the fact of the recording of such affidavit, showing the location in which such affidavit is recorded. The filing of such affidavit for record shall have the same effect with respect to the duration of the lien of the mortgage or vendor's lien described in such affidavit and with respect to the time within which an action may be brought or maintained to foreclose such mortgage or vendor's lien as though the time of maturity of the debt or the last installment of the debt secured by such mortgage or vendor's lien had been stated in such mortgage or vendor's lien when recorded. Such affidavit shall be prima facie evidence of the truth of the averments therein contained. The lien of such mortgage or vendor's lien on the real estate described therein shall cease and expire twenty (20) years from the time when the debt or the last installment of the debt secured by such mortgage or vendor's lien becomes due, as shown by such affidavit, and, upon the expiration of twenty (20) years from such time of maturity, the recorder of the county in which such affidavit is recorded, upon the request of the owner or owners of record of such real estate, shall certify across the face of the record of any such mortgage or vendor's lien that such mortgage or vendor's lien is fully paid and satisfied by lapse of time and that the real estate described in such mortgage or vendor's lien is released from the lien thereof. [IC 32-28-4-3]

The recorder shall charge a fee for filing the affidavit in accordance with the fee schedule established in IC 36-2-7-10. The fee to be charged, if not larger than 8½ x 14 inches, would be six dollars (\$6.00) for the first page, two dollars (\$2.00) for each additional page, and one dollar (\$1.00) for attesting to the release on the recorded mortgage.

Assignment of Mortgage: Any mortgage of record, or any part of the mortgage, may be assigned by the mortgagee, or any assignee of the mortgage, either by an assignment entered on the margin of the record, signed by the person making the assignment and attested by the recorder, or by a separate instrument executed and acknowledged before any person authorized to take acknowledgments, and recorded on the margin, or in the mortgage records of the county, in which case, the assignment shall be noted in the margin by the recorder, by reference to the book and page or to the instrument number where the assignment is recorded. Marginal assignments may be accepted at the discretion of the recorder. Except in a county that accepts marginal assignments of mortgage, an assignment of mortgage must be recorded on a separate written instrument from the mortgage. If a recorder does so, an instrument presented for recording in that county may not contain more than one (1) assignment. If a recorder allows an instrument to contain more

than one (1) assignment, the fee for recording that instrument is provided in IC 36-2-7-10(b)(3). And after entry is made of record, the entry is a public record. Any assignee may enter satisfaction or release of the mortgage, or the part of the mortgage held by the assignee of record. [IC 32-29-1-8]

A person who transfers or assigns a mortgage in Indiana shall do so in writing, either on the record where such mortgage is recorded or by separate written instrument, and cause the same to be duly acknowledged before some officer authorized to take acknowledgments of the execution of such mortgages. [IC 32-29-2-1]

STATE, COUNTY OR MUNICIPAL HIGHWAY RIGHTS-OF-WAY

Whenever any right-of-way or easement for any state, county or municipal highway is acquired, an accurate description of all such rights-of-way and easements shall be filed in the office of the recorder of the county in which the real property is located, and the description shall be recorded in the deed records of the county. The county recorder may not charge a fee for filing and recording the description. [IC 8-23-23-1]

Note: While the county auditor makes no transfer of right-of-way grants for taxation (except where transferred by deed) and the full acreage remains assessed to the owner of such land, it is required by IC 6-1.1-4-14 that a pro rata deduction be given the owner in land assessment value for so much thereof as may be occupied for right-of-way purposes. Therefore, so that the county auditor may make an appropriate notation on his records and give a pro rata deduction in assessed value for that part included in the right-of-way grants, it is suggested that each right-of-way grant be referred to the county auditor at the time of recording.

AFFIDAVITS AFFECTING REAL ESTATE

An affidavit that: (1) Concerns the birth, marriage, death, name, residence, identity, or relationship of any of the parties named in an instrument affecting real property; (2) Is made by a land surveyor registered under IC 25-21.5 and concerns the existence or location of a monument or physical boundary; (3) Is made by a land surveyor registered under IC 25-21.5 and reconciles ambiguous descriptions in conveyances with descriptions in a regular chain of title; (4) Concerns facts incident to the adverse possession of real property and the payment of taxes on that property; or (5) Is made by a purchaser of real property sold on foreclosure or conveyed in lieu of foreclosure of: (a) A deed of trust securing an issue of bonds or other evidences of indebtedness; (b) A mortgage; (c) A contract for the sale of real property; or (d) Any other security instrument; held by a fiduciary or other representative, and concerns the authority of the purchaser to purchase the property and the terms and conditions on which the property is to be held and disposed of; may be recorded in the office of the recorder of the county in which the property is located. If an affidavit is presented to the recorder for record under this section, the recorder shall record it in the miscellaneous records in the recorder's office.

An affidavit recorded under this section may be received in evidence in any proceeding affecting the real property and constitutes prima facie evidence of the facts and circumstances contained in the affidavit. [IC 36-2-11-19]

GROSS INCOME TAX ON REAL PROPERTY SALES

Department of Revenue Information Bulletin #47: If no tax is due on the proceeds from the sale of real property by all corporations (except Sub Chapter S, Small Business Corporations), and corporate-partnerships, which are partnerships with a corporate member, a written affidavit attesting to that fact must be presented to the county recorder before recordation.

No instrument will be accepted by any county recorder for recordation unless it has been stamped by the county treasurer, or the above-mentioned affidavit is presented with it.

The following deeds need not show proof of gross income tax payment before recordation:

- (1) Deeds to cemetery lots.
- (2) Deeds made by a county sheriff.
- (3) Auditor's deeds.
- (4) Tax title deeds.

In Official Opinion No. 28, dated June 29, 1961, the Attorney General stated: "The county recorder may legally accept an instrument of transfer to the State of Indiana . . . or to the federal government . . . without the proof of payment of the gross income tax and without the affidavit that no tax is due or payable."

CONTRACT PURCHASE - DEDUCTION FROM THE ASSESSED VALUE

Retroactively to January 1, 1981, each year a person who is a resident of this state may receive a deduction from the assessed value of mortgaged real property that he owns, or real property that he is buying under a contract, with the contract or a memorandum of the contract recorded in the recorder's office, which provides that he is to pay the property taxes on the real property.

SECURITY INTEREST - WHEN COLLATERAL IS GRAIN AND FARM IMPLEMENTS

Before July 1, 2002, IC 26-1-9.1-501 provides that the proper places to file to perfect a security interest when the collateral is equipment used in farming operations, farm products, or accounts or general intangibles arising from or relating to the sale of farm products by a farmer, are as follows: County recorder's office in the county of the debtor's residence; if the debtor is not a resident of this state then in the office of the county recorder in the county of the debtor's place of business; if the debtor has more than one place of business in Indiana, the County Recorder's office of the county where the debtor's chief executive office is located; and the office of the County Recorder where the collateral is located, for equipment used in farming, or the office of the Secretary of State, for an account or general intangible arising from or relating to the sale of a farm product by a farmer, in all other cases.

After June 30, 2002, these security interests will be filed in the office of the Secretary of State, including amendments, continuations, and assignments of security interests filed prior to July 1, 2002 in the office of the County Recorder. Terminations of financing statements filed prior to July 1, 2002 will be filed in the office of the County Recorder where the financing statement was originally filed unless the financing statement was refiled with the Secretary of State. The refiled financing statements' terminations need to be filed with the Secretary of State's office. [IC 26-1-9.1-501]

PLATS OF ADDITIONS AND SUBDIVISIONS

Additions and Subdivisions to Cities and Towns: A person who lays out a town, an addition to a municipality, or a subdivision of lots or lands within the corporate boundaries of a municipality, shall record a correct plat of the town, addition, or subdivision in the office of the recorder of the county before selling any lots in the town, addition, or subdivision. The plat must show public grounds, public ways, and the length, width, and size of each lot. Lots shown on the plat must be regularly numbered.

Every donation or grant to the public, or to any person, that is noted as such on the plat, is considered a general warranty to the donee or grantee named on the plat, for the purposes intended by the donor or grantor.

Before offering a plat for record under this section, a person must acknowledge it before an officer authorized by law to take and certify acknowledgments of deeds. The plat may be recorded only if it is made and acknowledged in the manner prescribed by this section.

Before a person offers a plat for recording under this section, he must submit it for the approval of:

- (1) The advisory plan commission that has jurisdiction over the platted area under IC 36-7-4-100 through IC 36-7-4-199; or
- (2) The municipal works board, if no advisory plan commission has jurisdiction over the platted area under IC 36-7-4.

The advisory plan commission or works board shall approve or disapprove the plat, and may require the public ways shown in the plat to be as wide as, and coterminous with, the public ways in contiguous parts of the municipality. The county recorder may record the plat only if a certificate showing the approval of the plan commission or works board is attached to it. If the record of a plat is not executed and approved as required by this subsection, it is void. [IC 36-7-3-3]

Subdivisions Outside Cities and Towns: A person who lays out a subdivision of lots or lands outside the corporate boundaries of any municipality shall record a correct plat of the subdivision in the office of the recorder of the county before selling any lots in the subdivision. The plat must show public grounds, public ways, and the length, width, and size of each lot. Lots shown on the plat must be regularly numbered.

The certificate of a licensed professional engineer qualified to do land surveying, or a licensed land surveyor, certifying the correctness of the plat must be attached to the plat. This certificate must include a description, by metes and bounds, of the location of the plat.

Before offering a plat for record under this section, a person must acknowledge it before an officer authorized by law to take and certify acknowledgments of deeds. The officer shall then attach to the plat a certificate of the acknowledgment, which must be recorded with the plat.

A person must also file a copy of the plat in the county auditor's office and must submit the plat for the approval of the advisory plan commission that has jurisdiction over the platted area under IC 36-7-4 of the county commissioners, if no advisory plan commission has jurisdiction over the platted area under IC 36-7-4.

The county recorder may record the plat only if a certificate showing the approval of the county commissioners is attached to it. If the record of a plat is not executed and approved as required by this subsection, it is void. [IC 36-7-3-2]

Approval of Plan Commission: After a master plan and an ordinance, containing provisions for subdivision control and the approval of plats and replats, have been adopted and a certified copy of the ordinance has been filed with the county recorder, a plat of a subdivision may not be filed with the auditor, and the recorder may not record it unless it has first been approved by the plan commission having jurisdiction over the area. The filing and recording of the plat is without legal effect unless approved by the commission or committee. [IC 36-7-4-710]

Transfers and Entries for Taxation: When any land is platted, before such plat is recorded it shall be presented to the county auditor who shall enter the lots or parcels described in such plat on the tax lists in lieu of the land included therein. [IC 6-1.1-5-3]

CEMETERY PLATS AND DEEDS

Before granting or selling any burial right in any part of a cemetery developed and platted after March 6, 1953, the owner of the cemetery shall cause to be recorded in the recorder's office of the county in which the cemetery is located an accurate survey and plat of that part of its property in which it proposes to grant or sell burial rights. [IC 23-14-34-1]

The owner of a cemetery shall issue a deed, certificate, or license to each purchaser of a burial right in the cemetery. Each deed, certificate, or license issued under this section must be properly signed and acknowledged before a notary public. [IC 23-14-34-4]

QUIET TITLE RECORD

All orders and decrees in any suit to quiet the title to real estate shall be entered by the clerk of the court in the civil order-book. After a court enters a final determination of any suit to quiet the title to real estate, the clerk of the court wherein such suit has been had, shall certify a copy of such order or decree, and deliver it to the recorder of such county for record. The costs of such transcript, together with the fees for recording the same in the recorder's office, shall be taxed as a part of the costs of such action. Every recorder of this state shall procure a substantially bound book to be known as "Quiet Title Record," of the size and quality of the deed records of such county, in which such transcripts shall be recorded, and also an index for said record, similar to the deed record indexes in his office, which index shall give the names of the plaintiffs alphabetically, the date of filing the transcript, the date of the final judgment, and the date final judgment was recorded, and a brief description of the real estate upon which the title has been quieted, and the book and page where the final judgment is recorded. [IC 32-30-3-17]

DECREE OF FINAL DISTRIBUTION IN ESTATES

Whenever the decree of final distribution includes real property, a certified copy thereof shall be recorded by the personal representative in every county of this state in which any real property distributed by the decree is situated, except the county in which the estate is administered. The cost of recording such decree shall be charged to the estate. [IC 29-1-17-2]

MECHANICS' LIEN ON REAL ESTATE

Any person who wishes to acquire a lien upon any property, whether the claim is due or not, shall file in the recorder's office of the county, at any time within ninety (90) days after performing labor or furnishing materials, or machinery, described in section 1 of this chapter, a sworn statement in duplicate of the person's intention to hold a lien upon the property for the amount of the claim, specifically setting forth the amount claimed, the name and address of the claimant and the name of the owner, the latest address of the owner as shown on the property tax records of the county and give the legal description, street and number, if any, of the lot or land on which the house, mill, manufactory or other buildings, bridge, reservoir, system of water-works or other structure may stand or be connected with or to which it may be removed. The name of the owner and legal description of the lot or land will be sufficient if they are substantially as set forth in the latest entry in the county auditor's transfer books at the time of filing of the notice of intention to hold a lien. The recorder shall mail first class one (1) of the duplicates to the owner named in such notice within three (3) business days after recordation and post records as to the date of this action. The notice shall be addressed to the latest address of the owner as specifically set out in the sworn statement and notice of the person intending to hold a lien. The recorder shall be entitled to a fee of two dollars (\$2.00) to be collected from the lien claimant for each notice that is mailed. [IC 32-28-3-3]

The sworn statement of the intention to hold the lien may be verified and filed on behalf of a client by an attorney registered with the Clerk of the Supreme Court as an attorney in good standing under the requirements of the Supreme Court (effective September 1, 1986).

Any otherwise valid and enforceable notice of intention to hold a lien, filed prior to March 10, 1967, is valid and enforceable. [IC 32-28-3-4]

The recorder shall record the statement and notice, when presented, in the miscellaneous record book. All liens so created shall relate to the time when the mechanic or other person began to perform the labor or furnish the materials or machinery. Except as provided in specific circumstances listed in IC 32-28-3-5(c) and (d), all liens shall have priority over liens suffered or created thereafter. The liens of other mechanics or materialmen do not have priority over liens of another mechanic or materialman. The other exception is that the mortgage of a lender has priority over all liens created under this chapter that are recorded after the mortgage is recorded. [IC 32-28-3-5]

Any person who is the owner of or who has an interest in real estate to which a mechanics' lien has been attached may, at any time after thirteen (13) months from the date of the filing of the notice of such lien, file in the office of the recorder of the county in which such real estate is situated, an affidavit stating that no suit for the foreclosure of such lien is pending and that no unsatisfied judgment has been rendered on said lien. [IC 32-28-6-1]

It shall be the duty of the recorder of the county in which such real estate is situated to record such affidavit, when presented, in the miscellaneous record book of his office. It shall also be the duty of said recorder to certify on the record of the lien that the mechanics' lien is fully satisfied and that the real estate described in such mechanics' lien is released from the lien. The fee of the recorder for filing and recording of any such affidavit and the satisfaction of such lien shall be in such amount as is prescribed by law and paid by the person filing such affidavit. [IC 32-28-6-2]

Notice by Owner to Commence Suit - Release of Lien: The owner of property upon which a mechanic's lien has been taken, or any person or corporation having an interest therein, including mortgagees and lienholders, may notify, in writing, the owner or holder of the lien to commence suit thereon and if he fails to commence such suit within thirty (30) days after receiving such notice, the lien is void, but nothing contained herein shall prevent the claim from being collected as other claims are collected by law.

Any person who has given such notice by registered or certified mail to the holder of the lien at the address given in the notice of lien recorded may file an affidavit of service of said notice to commence suit with the recorder of the county in which said real estate is situated. The affidavit shall state the facts of said notice and that more than thirty (30) days have passed and no suit for foreclosure of said lien is pending and no unsatisfied judgment has been rendered on said lien. It shall be the duty of the recorder to record said affidavit in the miscellaneous record book of his office and to certify on the record of any such lien that the same is fully released from the lien. [IC 32-28-3-10]

OTHER LIENS TO BE HANDLED THE SAME AS MECHANIC'S LIENS ON REAL ESTATE

The same procedures applicable to mechanic's liens apply to the following: (1) Railroads [IC 32-28-3-13] and (2) Real Estate, Land Surveyors and Architects [IC 32-28-11-1], Employees' Liens [IC 32-28-12], Motor Vehicles (Airplanes) [IC 32-33-10], Transfer, Moving and Storage [IC 32-33-11], Liveryman's Liens [IC 32-33-8], Assessment Liens [IC 32-25-6-3], Mechanics Liens (Personality) [IC 32-33-9 or IC 32-33-10-7].

COAL MINER'S LIENS

The miners and other persons employed and working in and about the mines, and others interested in the rental or royalty on the coal mined therein, shall have a lien on said mine and all machinery and fixtures connected therewith, and everything used in and about the mine for work and labor performed within two (2) months, and for royalty on the coal mined for any length of time not exceeding two (2) months; and such liens shall be paramount to, and have priority over all other liens, except the liens of the state laws; and such liens shall have priority, as against each other, in the order in which they accrued, and for labor over that for royalty on coal.

Any person to acquire such lien, shall file in the recorder's office of the county where the mine is situated, within sixty (60) days from the time the payment became due, a notice of his intention to hold a lien upon such property for the amount of his claim, stating in such notice the amount of his claim, and the name of the coal works, if known, or any other designation describing the location of said mine; and the recorder shall record the said notice, when presented, in a book used for recording mechanics' liens, for which the recorder shall receive the fee set forth in IC 36-2-7-10.

Suits brought to enforce any lien herein created shall be brought within one (1) year from the date of filing same, in the recorder's office; and all judgment rendered on the foreclosure of such liens shall include the amount of the claim found to be due with the interest on same from the time due and with a reasonable attorney's fee, the judgment to be collected without relief from valuation, appraisal or stay laws. [IC 22-10-11-16]

STRIP MINER'S LIENS

All persons employed and working in and about the strip mines shall have a lien on said strip mine and all machinery and fixtures connected therewith, and everything used in and about the strip mine, for labor performed within a two (2) month time period preceding the lien. This lien is superior to, and has priority over all other liens, except the liens of the state taxes. These liens shall have priority, as against each other, in the order in which they accrued.

Any person desiring to acquire such lien, shall file in the recorder's office of the county where the mine is situated, within sixty (60) days from the time the payment became due, a notice of his intention to hold a lien upon such property for the amount of the claim, stating in such notice the amount of the claim, and the name of the coal works, if known. The recorder shall record the notice, when presented, in a book used for recording mechanics' liens, for which the recorder shall receive a fee in accordance with IC 36-2-7-10. If the mine is located in more than one (1) county, said notice of intention to hold a lien may be filed in any county where any part of the mine is located.

Suits brought to enforce any lien created, shall be brought within one (1) year from the date of filing notice thereof in the recorder's office. All judgments rendered on the foreclosure of such liens shall include the amount of the claim found to be due together with the interest on same from the time due and a reasonable attorney's fees. The judgment shall be collected without relief from valuation, appraisal or state laws. [IC 32-28-10-2]

BANKRUPTCY PROCEEDINGS

The county recorder of any county in the state of Indiana shall receive for record and shall record any certified copy of any matter in reference to bankruptcy, if federal law requires that the copy be filed in the county wherein lands of a bankrupt are situated in order to be notice of such bankruptcy. Such certified copy shall be recorded in the Miscellaneous Records and shall be indexed in the same manner as deeds, in the name of the bankrupt as grantor, and in the name of the trustee in bankruptcy, or receiver (if any), as grantee. [IC 36-2-11-22]

FEDERAL LIENS ON REAL PROPERTY

IC 36-2-11-25 applies to liens arising under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. (commonly known as the Superfund Law) and to any other federal lien on real property provided for in the statutes or regulations of the United States. In order for a lien to be perfected, notice of the lien must be filed in the office of the recorder of the county in which the real property is subject to the lien is located.

When a notice of this type of lien is presented to the recorder for filing, the recorder shall enter it appropriately in the entry book and in the miscellaneous record. The entries made must show the date of filing, the book and page number or instrument number, the name of the person named in the notice, a legal description of the property (if appropriate), and any serial number or other identifying number given in the notice.

When a certificate of discharge of a federal lien is issued by the proper officer and presented for filing in the office of the recorder of the county where the notice of lien was filed, the recorder shall record the certificate of discharge as a release of the lien. However, to be recorded, the certificate must refer to the recorder's book and page number or instrument number under which the lien was recorded.

When recording a release of a lien, the recorder shall inscribe, in the margin of each entry made to record the lien, a reference to the place where the release is recorded.

Upon the recording of the certificate of discharge as a release and the inscribing of the references to the release, a certificate of discharge of a lien operates as a full discharge and satisfaction of the lien, unless the references to the release inscribed specifically note the release as a partial lien release.

FARM NAMES

Any owner of a farm in the State of Indiana may have the name of his farm, together with a description of his lands to which said name applies, recorded in a register kept for that purpose in the office of the county recorder of the county in which said farm is located, and such recorder, under the seal of his office, shall furnish to such landowner a proper certificate setting forth said name and a description of such lands. When any name shall have been recorded as the name of any farm in such county, such name shall not be recorded as the name of any other farm in the same county. [IC 36-2-11-17]

When any owner of a farm, the name of which has been recorded as provided in this act, transfers by deed or otherwise the whole of such farm, such transfer shall include the registered name thereof; but if the owner shall transfer only a portion of such farm, then, in that event, the registered name thereof shall not be transferred to the purchaser unless so stated in the deed of conveyance. [IC 36-2-11-17]

When any owner of a registered farm desires to cancel the registered name thereof, he shall state on the margin of the record of the register of such name the following: "This name is canceled and I hereby release all rights thereunder," which shall be signed by the owner, and attested by the county recorder. [IC 36-2-11-17]

PARTNERSHIP AND FIRM NAMES

Except as otherwise provided in IC 23-15-1-2:

- (1) a person conducting or transacting business in Indiana under a name, designation, or title other than the real name of the person conducting or transacting such business;
- (2) a corporation conducting business in Indiana under a name, designation, or title other than the name of the corporation as shown by its articles of incorporation;
- (3) a foreign corporation conducting business in Indiana under a name, designation, or title other than the name of the foreign corporation as shown by its application for certificate of authority to transact business in Indiana;
- (4) a limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its certificate of limited partnership;
- (5) a foreign limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its application for registration;
- (6) a limited liability company conducting business in Indiana under a name, designation, or title other than as shown by its articles of organization;
- (7) a foreign limited liability company conducting business in Indiana under a name, designation, or title other than the name of the limited liability company as shown by its application for registration;

- (8) a limited liability partnership conducting business in Indiana under a name designation, or title other than the name of the limited liability partnership as shown by its application for registration; and
- (9) a foreign limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration;

shall file for record, in the office of the recorder of each county in which a place of business or an office of the person, limited partnership, foreign limited partnership, limited liability company, foreign limited liability company, corporation, or foreign corporation is situated, a certificate stating the assumed name or names to be used, and, in the case of a person, the full name and address of the person engaged in or transacting business, or, in the case of a corporation, foreign corporation, limited liability company, foreign limited liability company, limited partnership, or foreign limited partnership, the full name and the address of the corporation's or limited partnership's principal office in Indiana.

The recorder shall keep a record of the certificates filed under this section and shall keep an index of the certificates showing, in alphabetical order, the names of the persons, the names of the partnerships, the names of the limited liability companies, the corporate names of the corporations having such certificates on file in the recorder's office, and the assumed name or names which they intend to use in carrying on their businesses as shown by the certificates.

Before the dissolution of any business for which a certificate is on file with the recorder, the person, limited liability company, partnership, or corporation to which the certificate appertains shall file a notice of dissolution for record in the recorder's office.

The county recorder shall charge a fee in accordance with IC 36-2-7-10 for each certificate, notice of dissolution, and notice of discontinuance of use filed with the recorder's office and recorded under this chapter. The funds received shall be receipted as county funds the same as other money received by the recorders.

A corporation, limited liability company, or limited partnership subject to this chapter shall, in addition to filing the certificate provided for, file with the secretary of state a copy of each certificate.

A person, partnership, limited liability company, or corporation that has filed a certificate of assumed business name may file a notice of a discontinuance of use of assumed business name or names with the Secretary of State and with the recorder's office in which the certificate was filed or transferred. The Secretary of State and the recorder shall keep a record of notices filed under this subsection.

A corporation or limited partnership, domestic or foreign, that is subject to this chapter and that does not have a place of business or an office in Indiana, shall file the certificate in the office of the recorder of the county where the corporation's or limited partnership's registered office is located. The certificate must state the assumed name or names to be used, the name of the registered agent, and the address of the registered office.

The Secretary of State shall collect the following fees when a copy of a certificate is filed with the Secretary of State:

- (1) a fee of thirty dollars (\$30.00) from a corporation (other than a nonprofit corporation), limited liability company, or a limited partnership.
- (2) a fee of twenty-six dollars (\$26.00) from a nonprofit corporation. [IC 23-15-1-1]

ARTICLES OF INCORPORATION

Domestic Corporations for Profit: Whenever any corporation amends its articles of incorporation to change its corporate name, it may, after such amendment has become effective, . . . file for record with the county recorder of each county in this state in which it shall have real property at the time the amendment becomes effective, a file-stamped copy of the articles of amendment. The validity of a change in name is not affected by a corporation's failure to record the articles of amendment. [IC 23-1-38-6]

TRUSTEES OF RELIGIOUS AND FRATERNAL ORGANIZATIONS

At the first and every subsequent election of trustees of certain fraternal, religious, educational, scientific and benevolent organizations, enumerated in IC 23-10-2-1, it is required that a certificate of election of such trustees be deposited in the recorder's office of the county when real estate granted to such organization is situated, such certificate to be recorded by the county recorder among the records of deeds in his office. [IC 23-10-2-4]

Note: In General. Failure of the clerk to file the certificate as required by this section does not affect the election of the trustees or the validity of their acts. *Roberts v. Hill* (1894), 137 Ind. 215, 36 N.E. 843, *Mendenhall v. First New Church Soc.* (1912), 177 Ind. 336, 98 N.E. 57.

The failure of a lodge or society to file and have recorded a certificate showing the election of trustees does not affect the power of the society to acquire and hold property. *Mendenhall v. First New Church Soc.* (1912), 177 Ind. 336, 98 N.E. 57.

The purpose of this section is to enable the public to learn who are the official representatives of the organization, and the filing of the certificate is not a prerequisite to the exercise of the trustees' duties. *Mendenhall v. First New Church Soc.* (1912), Ind. 336, 98 N.E. 57.

OFFICIAL BONDS

Whenever in any political subdivision, as hereinafter defined, a bond for the faithful performance and discharge of duty is required of an elected or appointed officer, official, deputy or employee of such municipality, except the bonds of the county recorder, deputy or employee thereof, such bonds shall be filed and recorded in the office of the county recorder in the county of residence of such officer, official, deputy or employee. And the bonds of the county recorder, deputy or employee shall be filed and recorded in the office of the clerk of the circuit court as now provided by law. [IC 5-4-1-5.1]

Political subdivision has the meaning set forth in IC 36-1-2-13 and excludes any department or agency of the state. [IC 5-4-1-5.1]

That such bonds referred to in subsection (b) shall be filed within ten (10) days of issuance thereof or if approval is required within ten (10) days after the approval thereof by the person or persons required to approve such bonds. [IC 5-4-1-5.1]

IC 5-4-1-18 states: "(a) Except as provided in subsection (b), the following city, town, county, or township officers and employees shall file an individual surety bond:

- (1) City judges, controllers, clerks, and clerk-treasurers.
- (2) Town judges and clerk-treasurer.

- (3) Auditors, treasurers, recorders, surveyors, sheriffs, coroners, assessors, and clerks.
- (4) Township trustees and assessors.
- (5) Those employees directed to file an individual bond by the fiscal body of a city, town, or county.

(b) The fiscal body of a city, town, county, or township may by ordinance authorize the purchase of a blanket bond or a crime insurance policy endorsed to include faithful performance to cover the faithful performance of all employees, commission members, and persons acting on behalf of the local government unit including those officers described in subsection (a).

(c) The fiscal bodies of the respective units shall fix the amount of the bond of city controllers, city clerk-treasurers, town clerk-treasurers, Barrett Law fund custodians, county treasurers, county sheriffs, circuit court clerks, township trustees, and conservancy district financial clerks as follows:

- (1) The amount must equal fifteen thousand dollars (\$15,000) for each one million dollars (\$1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond, subject to subdivision (2).
- (2) The amount may not be less than fifteen thousand dollars (\$15,000) nor more than three hundred thousand dollars (\$300,000).

County auditors shall file bonds in amounts of not less than fifteen thousand dollars (\$15,000), as fixed by the fiscal body of the county. The amount of the bond of any other person required to file an individual bond shall be fixed by the fiscal body of the unit at not less than eight thousand five hundred dollars (\$8,500).

(d) A controller of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file an individual surety bond in an amount:

- (1) fixed by the board of directors of the solid waste management district; and
- (2) that is at least fifteen thousand dollars (\$15,000).

(e) Except as provided under subsection (d), a person who is required to file an individual surety bond by the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file a bond in an amount fixed by the board of directors.

(f) In 1982 and every four (4) years after that, the state examiner shall review the bond amounts fixed under this section and report to the general assembly whether changes are necessary to ensure adequate and economical coverage.

(g) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section, in consultation with the commission on public records under IC 5-15-5.1-6.

Note: IC 36-2-7-10 provides that no charge shall be made for filing and recording an official bond.

OFFICIAL BONDS
(Continued)

Office	Amount		Amount Fixed By	Bond Approved By	Indiana Code Reference
	Minimum	Maximum			
County Officials:					
County Auditor	\$ 15,000.00	\$	(11)	(12)	(7)(1)
County Treasurer	(4) 15,000.00	300,000.00	(11)	(12)	(7)(1)
Clerk of the Circuit Court	(4) 15,000.00	300,000.00	(11)	(12)	(7)(1)
County Sheriff	(4) 15,000.00	300,000.00	(11)	(12)	(7)(1)
County Recorder	8,500.00		(11)	(12)	(7)(1)
County Coroner	8,500.00		(11)	(12)	(7)(1)
County Assessor	8,500.00		(11)	(13)	(7)
Prosecuting Attorney	8,500.00		(24)	(14)	(24)
Prosecuting Attorney Investigator	5,000.00		(25)	(14)	(25)
County Surveyor	8,500.00		(11)	(14)	(7)
County Superintendent of Schools	8,500.00		(11)	(14)	(7)
County Superintendent of Schools - Joint Service and Supply Fund	8,500.00		(11)	(14)	(7)
County Highway Supervisor	8,500.00		(11)	(14)	(7)
County Highway Engineer	8,500.00		(11)	(14)	(7)
County Home Superintendent	8,500.00		(11)	(14)	(7)
County Inspector of Weights and Measures	8,500.00		(11)	(14)	(7)
Township Officials:					
Township Trustee	(4) 15,000.00	300,000.00	(16)	(13)	(7)
Township Assessor	8,500.00		(16)	(13)	(7)
City Officials:					
City Judge	8,500.00		(17)	(18)	(7)
City Controller	(4) 15,000.00	300,000.00	(17)	(18)	(7)
City Clerk	8,500.00		(17)	(18)	(7)
City Clerk-Treasurer	(4) 15,000.00	300,000.00	(17)	(18)	(7)
City Manager (Third-Class City)	8,500.00		(17)	(18)	(31)
City Inspector of Weights and Measures	8,500.00		(17)	(18)	(32)
Barrett Law Fund Custodian	(4) 15,000.00	300,000.00	(17)(3)	(17)(3)	(7)(33)
All Other City Officers Except Mayor and Common Council				(18)	(7)
Police Pension Secretary	8,500.00		(17)	(18)	(26)
Utility Superintendent			(28)	(18)	(28)

OFFICIAL BONDS
(Continued)

Office	Amount		Amount Fixed By	Bond Approved By	Indiana Code Reference	
	Minimum	Maximum				
Town Officials:						
Town Clerk-Treasurer	(4)	\$ 15,000.00	\$300,000.00	(19)	(19)	(7)
Town Manager				(19)	(19)	(29)
Town Marshal		8,500.00		(19)	(19)	(7C)
Deputy Town Marshal				(19)	(19)	(30)
Town Judges		8,500.00		(19)	(19)	(7)
Police Pension Secretary	(4)	15,000.00	300,000.00	(17)	(18)	(26)
Utility Superintendent				(28)	(18)	(28)
Conservancy District Officials:						
Financial Clerk	(4)	15,000.00	300,000.00	(15)	(15)	(7B)
School Corporation Officials:						
School Corporation Treasurer				(20)	(20)	(8)
School Corp. Deputy Treasurer				(20)	(20)	(8)
School Extra-Curricular Treasurer	(5)			(21)	(21)	(8A)
Treasurer School Lunch Fund				(20)	(20)	(8B)
Treasurer School Text Book Fund				(20)	(20)	(8B)
Library Officials:						
Treasurers:						
1947 Law				(22)	(22)	(9)
1903 Law				(17)	(17)	(9A)
1901 Law				(13)	(13)	(9B)
1917 Law				(22)	(22)	(9C)
1852 Law	(6)					(9D)
Board Members:						
1903 Law		2,000.00	2,000.00	(2)	(22)	(9A)
Hospital Officials:						
Treasurer		25,000.00		(23)	(23)	(10)
Assistant Treasurer		25,000.00		(23)	(23)	(10)
Blanket Bond (Employees)				(23)	(23)	(10)

OFFICIAL BONDS
(Continued)

REFERENCES

- (1) Applies in all counties except Marion County. (Approved by Mayor of City of Indianapolis in Marion County.)
- (2) Amount fixed by law.
- (3) If in a town - Board of Town Trustees.
- (4) Amount should equal \$15,000.00 for each \$1,000,000.00 of receipts for last complete fiscal year before purchase of bond.
- (5) All Extra-Curricular Treasurers within the same school corporation may be covered by a single blanket position bond.
- (6) No mention of bond in law.
- (7) IC 5-4-1-18;
- (7A) IC 12-19-1-6
- (7B) IC 5-4-1-18; 13-3-3-42
- (7C) IC 5-4-1-8
- (8) IC 20-5-3-4
- (8A) IC 20-5-7-3
- (8B) IC 20-5-6-6
- (9) IC 20-13-1-22.1
- (9A) IC 20-13-14-4
- (9B) IC 20-13-15-3
- (9C) IC 20-13-9-3
- (9D) IC 20-13-10-3
- (10) IC 16-12.1-2-3
- (11) County Council
- (12) County Commissioners
- (13) County Auditor
- (14) Clerk of the Circuit Court
- (15) District Board of Directors
- (16) Township Board
- (17) City Council
- (18) Mayor
- (19) Town Council
- (20) Board of School Trustees
- (21) School Superintendent and Principal
- (22) Library Board
- (23) Hospital Board of Trustees
- (24) IC 5-4-1-20
- (25) IC 33-39-4-1
- (26) IC 36-8-6-3
- (27) IC 36-8-7-10
- (28) IC 8-1.5-3-5
- (29) IC 36-5-5-5
- (30) IC 36-5-7-6
- (31) IC 36-4-12-8
- (32) IC 24-6-3-5; 36-8-2-12
- (33) IC 36-9-37-4

COPIES OF RECORDS OR INSTRUMENTS

The county recorder shall charge and collect for preparing or proofing any submitted copy of any transcript of any record or copy of any record or instrument in all cases, when required by law, ordered by the court, or requested by any parties, three dollars (\$3.00) per page for furnishing typewritten copies of records and the fees prescribed in IC 36-2-7-10(b) for furnishing copies of records produced by a photographic process. He or she shall charge and collect in addition thereto five dollars (\$5.00) for acknowledging or certifying to any such copies. [IC 36-2-7-10]

MEMBERS OF ARMED FORCES - SERVICES AND DISCHARGE PAPERS

Certified Copies of Records to Veterans, Widows and Dependents: The state or any political subdivision shall provide upon request, without charge or fee, one (1) certified copy of any document or record if it is shown that the certified copy is necessary to secure benefits to members of the military service, honorably discharged veterans, or their surviving spouses or dependents, under any federal or state law. The state or a political subdivision may collect a charge per copy of not more than the amount specified by IC 36-2-7-10(b) if the person requests more than one (1) certified copy of the document or record. Funds so received shall be placed in the general fund of the state or county. Provided, however, for the purpose of this act the words "honorably discharged veterans of any war" includes those persons placed on inactive duty under honorable conditions but not discharged from military service. [IC 10-17-3]

Recording Discharge Papers: For the purpose of providing a special and permanent record of discharges from any branch of the military service of the United States, of members of any branch of the service who are residents of Indiana, the county recorder shall procure a sufficiently large and well-bound book of good material in which he shall record all discharges. [IC 10-17-2-1]

Such book providing for the recording of discharges from the army, navy, or any other branch of the service, shall consist of printed forms in blank, similar to and in conformity with the wording of the forms of discharge used by the United States Government, the size of type being reduced to permit printing of the form of discharge on one (1) page of said record, and each book shall be provided with an alphabetical index. [IC 10-17-2-2]

No fee shall be collected for recording a discharge. The recorder shall immediately provide the discharged person with a certified copy of the discharge at no charge in accordance with IC 10-17-3-2.

DESIGNATION OF DEPOSITORY - DEPOSIT OF FUNDS

The recorder should check with the County Treasurer or the County Board of Finance to determine which depositories located within the county have been approved to receive public funds and then select the depository where he or she will place their funds.

When a depository has been designated, as provided by law, the recorder shall at once deposit all fees and funds in his custody to a checking account in such designated depository. All fees and funds subsequently received by the recorder in the conduct of the business of the office shall be deposited daily and may be withdrawn only on checks signed by the recorder or authorized deputy. [IC 5-13-6-1]

COMMISSION ON PUBLIC RECORDS

A commission is hereby created in each county of the state which shall be known as the county commission of public records of _____ county. The county commission of public records shall consist, ex officio, of the judge of the circuit court, the president of the board of county commissioners, the county auditor, the clerk of the circuit court, the county recorder, the superintendent of schools of the school district in which the county seat is located and the city controller of the county seat city, and if there be no such city controller, then the clerk-treasurer of such county seat city or town shall be a member of such commission. The commission shall elect one (1) of its members to be chairman and the clerk of the circuit court shall be secretary. The members of the commission shall serve without compensation, and shall receive no disbursement for any expense. [IC 5-15-6-1]

It is the duty of the county commission to determine which public records are no longer of official or historical value, which public records are of current official value and should be retained in the office where they are required to be filed, which public records are of official value but are consulted and used so infrequently that they are no longer of appreciable value to the officer with whom they are filed, and which records are of no apparent value but which do have historical value. [IC 5-15-6-2]

All public records which, in the judgment of the commission, have no official or historical value, and which occupy space to no purpose in the offices and storerooms of the county, city, town, township, school corporation, or other political subdivision of such county, shall be destroyed or otherwise disposed of. No such records shall be destroyed until a period of at least three years shall have elapsed from the time when they were originally filed, and no public record shall be destroyed within a period of three years if the law provides that they shall be kept for a longer period of time, or if the law prohibits their destruction. No financial records or records relating thereto, shall be destroyed until the audit of such records by the State Board of Accounts has been completed, report filed and any exceptions set out in such report satisfied or the records have been copied or reproduced as described in subsection (e). [IC 5-15-6-3]

The law prescribes the duties and empowers the commission to determine in writing what records may be transferred to the archives of the state library and what records may be destroyed.

Microfilming - Destruction of Old Records: IC 5-15-1-1 authorizes the copying or reproducing of records by any photostatic, photographic or miniature photographic (microfilm) process, and when so copied or reproduced, authorizes certain old records to be destroyed or otherwise disposed of. No original filing records may be destroyed or otherwise disposed of, however, until and unless the time for filing legal proceedings based on such instruments shall have elapsed, nor shall any records be destroyed or otherwise disposed of without approval of the county commission of public records. The full text of this law will be found in the statute cited.

Note: Extensive information concerning all county records may be found in IC 36-2-17.

OIL AND GAS LEASES

All leases for oil and gas entered of record in this state are void after a period of one (1) year has elapsed since the last payment of rentals thereon as stipulated for in the lease or contract, or since operation for oil or gas has ceased, both by the nonproduction of oil or gas and the nondevelopment of the lease, and, upon the written request of the owner of such lands, accompanied with the affidavit of the owner, stating that no rentals have been paid or received by the owner or any person, bank or corporation in the owners behalf for a period of one (1) year after they have become due, and that the leases and contracts have not been operated for the production of oil or gas for one (1) year. The recorder of the county in which such real estate

is situated shall certify upon the face of the record that such leases and contracts are invalid and void by reason of nonpayment of rentals and is (are) thereby canceled of record. The request and affidavit shall be recorded in the miscellaneous records of the recorder's office. If, at any time subsequent to the cancellation of said lease and contract and within the term provided for in said lease or contract, the lessee submits to the recorder a receipt or a canceled check, or an affidavit, showing that such rental has been paid, or an affidavit that said lease has been operated within a period of one (1) year prior to cancellation, and that the affidavit of the lessor is false or fraudulent, the cancellation is void, and the recorder shall so certify at the place where the cancellation of the lease and contract has been entered. The owner of any lease canceled by any county recorder, as herein provided, may take an appeal from the order and record of cancellation of the county recorder to the circuit court of the county in which the land is located, within six (6) months from the date of such cancellation of any such lease. [IC 32-23-8-1 through IC 32-23-8-4]

For attesting to the release, partial release or assignment of an oil or gas lease on the record for each oil or gas lease, the recorder shall charge a fee in accordance with the fee schedule established in IC 36-2-7-10.

HOSPITAL LIENS

IC 32-33-4-4 permits hospitals to file for record a verified statement in writing to perfect a lien. This statement shall be filed in the county in which the hospital is located within one-hundred eighty (180) days after the person is discharged. IC 32-33-4-4 sets out what the verified statement shall include.

The recorder shall endorse on the claim filed the date and hour of filing and shall charge a fee for filing the claim in accordance with the fee schedule established in IC 36-2-7-10.

To release a hospital lien the hospital shall file an executed certificate with the recorder. The recorder shall enter in the margin of the record of the lien and the entry book a memorandum of the filing and the date the certificate was filed. This entry constitutes a release of lien for which the recorder shall receive the fee prescribed in IC 36-2-7-10.

AMBULANCE LIENS

IC 32-33-5-4 permits the providers of emergency ambulance services (other than a hospital) to file for record a verified statement in writing to perfect a lien. This statement shall be filed in the county recorder's office within sixty days after the provision of the services. IC 32-33-5-4 sets out what the verified statement shall include.

The recorder shall endorse on the claim filed the date and hour of filing and shall charge a fee for filing the claim in accordance with the fee schedule established in IC 36-2-7-10.

To release an ambulance lien the ambulance services provider shall file an executed certificate with the recorder. The recorder shall enter in the margin of the record of the lien and the entry book a memorandum of the filing and the date the certificate was filed. This entry constitutes a release of lien for which the recorder shall receive the fee prescribed in IC 36-2-7-10.

SEWER LIENS

IC 36-9-23-33 authorizes cities and towns to enforce collection of delinquent sewage charges in the following manner:

- (1) The city or town clerk-treasurer or other officer charged with the collection of sewer charges is required to prepare a list or individual instrument for each lot or parcel of real property on which fees are delinquent.
- (2) The list or individual instrument shall include:
 - A. The name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent,
 - B. The description of the premises, as shown by the records of the county auditor, and
 - C. The amount of the delinquent fees, including penalties.
- (3) The list or individual instruments shall be prepared as often as the officer determines is necessary.
- (4) The list or individual instruments shall be recorded in the county recorder's office.
- (5) The fee for recording shall be in accordance with the fee schedule established in IC 36-2-7-10. (Except in Marion County, a service fee of \$5.00 shall be added to each delinquent fee that is recorded.)
- (6) A lien attaches to the real property served at the time the list or individual instrument is recorded.
- (7) Using the lists and instruments prepared and recorded, the officer shall, not later than ten days after recording, certify to the county auditor a list of liens that remain unpaid for collection next May.
- (8) The county auditor shall add a fifteen dollar (\$15) certification fee for each parcel or lot of real property. Except in Marion County, the county auditor shall place these unpaid liens on the tax duplicates for collection in the next May installment of property taxes.
- (9) The city or town clerk-treasurer or other officer charged with the collection of sewage charges shall release any recorded lien after the delinquent fees, penalties, service charges and recording fees have been paid in full.
- (10) The fee for releasing the lien (liens) shall be in accordance with the fee schedule established in IC 36-2-7-10.

EASEMENTS

An easement created after June 30, 1989, must cross reference the original recorded plat. However, if the real property from which the easement is being created is not platted, the easement must cross reference the most recent deed of record in the recorder's office. The recorder shall charge a fee for recording the easement in accordance with IC 36-2-7-10.

When a release of easement is recorded in the office of the county recorder in the county where the property is situated, the release document must cross reference the original easement document and reflect the name of the current owner of the property to whom the easement is being released as shown on the property tax records of the county. [IC 32-23-2-5]

PLATS OF SURVEY

The county may enact an ordinance requiring that if plats of survey have been prepared the plats must be filed with the county surveyor's office. If such an ordinance is adopted and a plat of survey has been prepared, a notarized record executed by the surveyor of the filing (showing the name of the surveyor, the date of certification, the name of the owner of the surveyed parcel as described in IC 36-2-19-4, subsection (b)(1), and a brief description of the surveyed parcel) must be recorded in the recorder's office. The ordinance shall establish a fee schedule for the filing of the plat.

A copy of any plat recorded in the recorder's office or filed in the surveyor's office under this chapter must be provided to the county auditor or the county surveyor, if this action is authorized by county ordinance for the maintenance of the plat book under IC 6-1.1-5-1. [IC 36-2-19-4 and IC 36-2-19-5]

UNDERGROUND FACILITIES [IC 8-1-26]

An operator that has underground facilities located in Indiana shall record with the county recorder of each county in which the facilities are located a list containing the name of each township in the county in which the operator has underground facilities, including those facilities that have been abandoned in place by the operator but not yet physically removed. The list must include the name of the operator and the name, title, address, and telephone number of the operator's representative designated to receive the written or telephonic notice of intent required by IC 8-1-26-16.

An operator shall record any changes in the information contained in the list recorded with the county recorder of the county in which these facilities are located within thirty (30) calendar days of the change. The document reflecting the changes shall be cross-referenced to the original list which was recorded.

The county recorder shall charge a fee in accordance with IC 36-2-7-10. [IC 8-1-26-15]

An association shall be responsible for providing the information for the association's members and shall be responsible for paying the recording fee for the association's members.

After August 31, 2004, operators must be members of the Indiana Underground Plant Protection Service. This Association shall record for its members the information below and pay the required recording fees.

- (1) The telephone number and address of the association.
- (2) A description of the geographical area served by the association.
- (3) A list of the names and addresses of each operator receiving the service from the association. [IC 8-1-26-7]

CONDOMINIUMS

Recording of Declaration; Contents

The owner of the land on which a condominium is declared shall record with the recorder of the county in which the land is situated a declaration containing the following particulars:

- (1) Description of the land on which the building and improvements are or are to be located.
- (2) Description of the building, stating the number of stories and basements, and the number of condominium units.
- (3) Description of the common areas and facilities.
- (4) Description of the limited common areas and facilities, if any, stating to which condominium units their use is reserved.
- (5) The percentage of undivided interest in the common areas and facilities appertaining to each condominium unit and its owner for all purposes, including voting.
- (6) Provision as to the percentage of votes by the condominium unit owners which shall be determinative of whether to rebuild, repair, restore, or sell the property in the event of damage or destruction of all or part of the property.
- (7) Any covenants and restrictions in regard to the use of the condominium units and common areas and facilities.
- (8) Any further details in connection with the property which the person executing the declaration may deem desirable to set forth consistent with this chapter.
- (9) The method by which the declaration may be amended, consistent with this chapter.

A true copy of the by-laws shall be annexed to the declaration and made a part thereof.

The record of the declaration shall contain a reference to the book, page and date of record of the floor plans of the building affected thereby. [IC 32-25-7-1]

Expandable Condominiums - Contents of Declaration: If a condominium is an expandable condominium, the declaration shall contain, in addition:

- (1) A general plan of development showing the property being subjected to the horizontal property regime and areas into which expansion may be made, and the maximum number of condominium units in additional phases which may be added;
- (2) A schedule or formula for determining the percentage of undivided interests in the common areas and facilities which will appertain to each condominium unit as each additional phase is added; and
- (3) A time limit, not exceeding ten (10) years within which the phase or phases may be added to the condominium. If additional phases are not developed within five (5) years from the recordation of the declaration, the development of additional phases may not be considered to be a common scheme and development of the entire condominium. [IC 32-25-7-2]

Contractible Condominiums - Contents of Declaration: If a condominium is a contractible condominium, the declaration shall contain, in addition:

- (1) An explicit reservation of an option to contract the condominium, together with a statement of any limitations on that option;
- (2) A date, not later than ten (10) years after the recording of the declaration, upon which the option to contract the condominium will expire, together with a statement of any circumstances that will terminate the option before the expiration of the time limit;
- (3) A legally sufficient description of all withdrawable land; and
- (4) A statement as to whether portions of the withdrawable land may be withdrawn from the condominium at different times, together with a statement of any limitations fixing the boundaries of those portions or regulating the order in which they may be withdrawn. [IC 32-25-7-3]

Floor Plans

Simultaneously with the recording of the declaration there shall be filed in the office of the county recorder a set of the floor plans of the condominium or building with relation to lot lines and showing the layout, elevation, location, unit numbers and dimensions of the condominium units, stating the name of the condominium or building or that it has no name, and bearing the verified statement of a registered architect or licensed professional engineer certifying that is an accurate copy of portions of the plans of the building as filed with and approved by the municipal or other governmental subdivision having jurisdiction over the issuance of permits for the construction of buildings. If such plans do not include a verified statement by such architect or engineer that such plans fully and accurately depict the layout, location, unit numbers and dimensions of the condominium units as built, there shall be recorded prior to the first conveyance of any condominium unit an amendment to the declaration to which shall be attached a verified statement of a registered architect or licensed professional engineer certifying that the plans theretofore filed, or being filed simultaneously with such amendment, fully and accurately depict the layout, location, unit numbers and dimensions of the condominium units as built. Such plans shall be kept by the recording officer in a separate file for each building, indexed in the same manner as a conveyance entitled to record, numbered serially in the order of receipt, each designated "condominium unit ownership," with the name of the building, if any, and each containing a reference to the book page and date of recording of the declaration. Correspondingly, the record of the declaration shall contain a reference to the file number of the floor plans of the building affected thereby. [IC 32-25-7-4]

Designation; Conveyance

Each condominium unit in a building shall be designated on the plans by letter or number or other appropriate designation. Any instrument recognized by the state for the conveyance or transfer of interests in title, which describes the apartment by using said letter or number followed by the words "in (name) Condominium as recorded in Book __, p. __, under the date of ____, ____, of the records of ____ County, Indiana" is considered to contain a good and sufficient description for all purposes. Any conveyance or transfer of interest in title of a condominium unit is considered also to convey the undivided interests of the owner in the common areas and facilities, both general and limited, appertaining to the condominium unit without specifically or particularly referring to it. The contents, form, method of preparation, and recording of said instruments of conveyance and interpretation thereof shall be governed by the law of this state relating to real property. Each instrument or deed of conveyance also shall include the following:

- (1) A statement of the use for which the condominium unit is intended and restrictions on its use.
- (2) The percentage of undivided interest appertaining to the condominium unit in the common areas and facilities.
- (3) The amount of any unpaid or delinquent assessments of common expenses.
- (4) Any other details and restrictions which the grantor and grantee consider desirable that are consistent with the declaration.

Failure to make a statement in the deed as required by subdivision (3) above does not invalidate the title conveyed by the deed, nor does it absolve a grantee under the deed from liability for any unpaid current or delinquent assessments of common expenses against a condominium unit on the date of its conveyance. Upon the request of any condominium unit owner, prospective grantee, title insurance company, or mortgagee, the secretary or other authorized officer of the association of co-owners shall provide, within five (5) days of the request, a statement of the amount of current and delinquent assessments of common expenses against a particular condominium unit. [IC 32-25-7-5]

Recording of Instruments; Indexes

The declaration, any amendment or amendments thereof, any instrument by which the provisions may be waived, and every instrument affecting the property or any condominium unit shall be recorded. Neither the declaration nor any amendment thereof may be valid unless recorded.

All of the laws of this state applicable to the recording of instruments affecting real property shall apply to the recording of instruments affecting any interest in a condominium unit.

In addition to the records and indexes required to be maintained by the recording officer, the recording officer shall maintain an index or indexes whereby the record of each declaration contains a reference to the record of each conveyance of a condominium unit affected by such declaration, and the record of each conveyance of a condominium unit contains a reference to the declaration of the building of which such condominium unit is a part. [IC 32-25-8-3]

Expandable Condominiums; Addition of Real Estate

A declarant may add additional real estate to an expandable condominium if an amendment to the declaration required is executed in the manner described above. The expansion is effective when the instruments required are recorded.

In expanding the condominium the declarant shall prepare, execute, and record amendments to the condominium instruments and record new plats and plans. The amendment to the declaration shall assign an identifying number to each condominium unit within the real estate being added and shall reallocate undivided interests in the common areas and facilities. [IC 32-25-8-13]

Contractible Condominium; Withdrawal of Land

Subject to the declaration, condominium instruments, and IC 32-25-8, a declarant may withdraw withdrawable land from a contractible condominium unless prohibited by paragraph three below. The contraction is effective when the instruments required are recorded.

In contracting the condominium, the declarant shall prepare, execute, and record an amendment to the declaration and condominium instruments containing a legally sufficient description of the land being withdrawn and stating the fact of withdrawal.

If a portion of the withdrawable land was described in the declaration, that portion may not be withdrawn if any person other than the declarant owns a condominium unit situated therein. If no such portion is so described, none of the withdrawable land shall be withdrawn if any person other than the declarant owns a condominium unit situated therein. [IC 32-25-8-14]

POWERS OF ATTORNEY

(a) Except as provided in subsection (b), an attorney in fact may act under a power of attorney without recording the power of attorney with the county recorder.

(b) An attorney in fact shall record the power of attorney authorizing the execution of a document that must be recorded before presenting the document for recording.

(c) A county recorder may not accept a document for recording if the document:

(1) was executed; and

(2) is presented;

by an attorney in fact whose power of attorney is unrecorded.

(d) A document creating a power of attorney must comply with recording requirements, including notary and preparation statements, to be recorded under this section.

(e) A document that is presented by an attorney in fact for recording must reference the book and page or instrument number where the instrument creating the power of attorney is recorded before the document may be presented by the attorney in fact. [IC 30-5-3-3]